

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

Balkema Excavating, Inc.
Climax Portable Plant
Climax, Michigan

FINDING OF VIOLATION

EPA-5-01-MI-04

PROCEEDINGS PURSUANT TO
THE CLEAN AIR ACT,
42 U.S.C. §§ 7401 et seq.

Finding of Violation

The United States Environmental Protection Agency finds that Balkema Excavating, Inc. (Balkema) violated Section 111(e) of the Clean Air Act, 42 U.S.C. § 7411(e). Specifically, Balkema, at its Climax Portable Plant, violated the New Source Performance Standards (NSPS) General Provisions at 40 C.F.R. §§60.7 and 60.8, as follows:

Regulatory Authority

1. The NSPS for Nonmetallic Mineral Processing Plants at 40 C.F.R. Part 60, Subpart 000, applies to the following affected facilities, which commenced construction, reconstruction, or modification after August 31, 1983, in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station.
2. "Affected facility" under the NSPS means, with reference to a stationary source, any apparatus to which a standard is applicable. 40 C.F.R. § 60.2.
3. The NSPS at 40 C.F.R. § 60.7(a)(1) requires owners or operators subject to the NSPS to furnish to the Administrator, written notification of the date construction of an affected facility is commenced postmarked no later than 30 days after such date.
4. The NSPS at 40 C.F.R. § 60.7(a)(3) requires owners or operators subject to the NSPS to furnish to the Administrator a written notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.
5. The NSPS at 40 C.F.R. § 60.8(a), requires that within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not more than 180 days after initial startup of the facility, the owner or operator of the facility shall conduct

performance test(s) and furnish the Administrator a written report of the results of the performance test(s).

Balkema's Climax Portable Plant

6. Balkema owns and operates a sand and gravel plant designated as the Climax Portable Plant at 15600 E. Michigan, Climax, Michigan.
7. Balkema's Midway Aggregates Plant is subject to the requirements of the NSPS at 40 C.F.R. § 60.7(a)(1), § 60.7(a)(3) and § 60.8(a), because all "affected facilities" at the plant were constructed and began operation on April 1, 1998.

Violations

8. Balkema violated the NSPS at 40 C.F.R. § 60.7(a)(1) and § 60.7(a)(3), because it did not provide the Michigan Department of Environmental Quality a notification of the actual date of construction and startup of the Climax Portable Plant until July 27, 1999.
9. Balkema violated the NSPS at 40 C.F.R. § 60.8(a), because it did not conduct performance tests on the affected facilities at the Climax Portable Plant until July 14, 1999.

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Date



Bharat Mathur, Division Director
Air and Radiation Division